

## SCHEDULE

Article 3

### Rules and principles relating to pre-release access

#### **Individuals to whom, and circumstances in which, pre-release may be granted**

1.—(1) Subject to the provisions of this Order, the person responsible<sup>(1)</sup> may grant pre-release access in respect of statistics only to the extent that they consider it is necessary to grant access to a particular identifiable individual in order to—

- (a) enable an individual mentioned in sub-paragraph (3) to comment publicly on the statistics based on a correct understanding of them;
- (b) enable an individual mentioned in sub-paragraph (3) to consider the implications of the statistics for the policies and programmes of the Welsh Ministers so as to ensure that any public comments made by an individual mentioned in sub-paragraph (3) about those policies and programmes at or after the time of publication of the statistics reflect a correct understanding of them;
- (c) ensure that other statistics available to an individual mentioned in sub-paragraph (3), about the same subject-matter as the statistics to which pre-release access may be granted are not relied on by such an individual to the detriment of—
  - (i) the exercise of any functions of the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, or
  - (ii) any public comment an individual mentioned in sub-paragraph (3) makes relating to those other statistics,without their being informed of the statistics to which pre-release access may be granted;
- (d) ensure, where a publication or other material is being prepared by or on behalf of any public body, public office or holder of such an office for publication at the same time or shortly after the statistics to which pre-release access may be granted, that any statistics contained in that publication or material are correct or that the publication or material is otherwise properly informed by the statistics to which pre-release access may be granted;
- (e) enable one of the following to make public comments in connection with the publication of the statistics based on a correct understanding of them—
  - (i) a Minister of the Crown;
  - (ii) the head of a United Kingdom government department;
  - (iii) a member of the Scottish Executive;
  - (iv) a junior Scottish Minister;
  - (v) a Northern Ireland Minister, including the First Minister and Deputy First Minister in Northern Ireland;
  - (vi) a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998<sup>(2)</sup>;
  - (vii) an individual who advises any of those mentioned in sub-paragraphs (i) to (vi).
- (f) enable a public body, public office or holder of such an office, to whose functions the statistics are relevant, to comment publicly on the statistics based on a correct understanding of them;

(1) “the person responsible” is defined in section 67 of the Act.

(2) 1998 c. 47.

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- (g) enable a body which represents a public body, public office or holder of such an office to whose functions the statistics are relevant, to comment publicly on the statistics based on a correct understanding of them;
  - (h) achieve any other purpose if the person responsible considers that the public interest is significantly better served by granting pre-release access (rather than not granting it) for that purpose having regard to any harm which the pre-release access would be likely to cause to—
    - (i) public trust in the integrity of official statistics generally; or
    - (ii) public trust in the integrity of particular official statistics.
- (2) The person responsible may grant pre-release access only where they are satisfied that there are arrangements in place to inform an individual to whom they grant pre-release access of the following information—
- (a) the ground in sub-paragraph (1) under which access is granted; and
  - (b) the requirements of paragraph 5.
- (3) The individuals mentioned in this sub-paragraph are—
- (a) a Welsh Minister appointed under section 48 of the Government of Wales Act 2006<sup>(3)</sup>;
  - (b) the First Minister for Wales;
  - (c) the Counsel General to the Welsh Assembly Government;
  - (d) a Deputy Welsh Minister appointed under section 50 of the Government of Wales Act 2006;
  - (e) an individual who advises any of those mentioned in sub-paragraphs (a) to (d).

#### **Pre-release access to be granted to particular identifiable individuals**

2. Where the person responsible grants pre-release access they must make that grant to a particular identifiable individual.

#### **Information to accompany statistics to which pre-release access has been granted**

3. The person responsible must ensure that the following information accompanies the release of statistics in respect of which they have granted pre-release access—

- (a) in the case of market-sensitive statistics, that they are “Confidential Statistics”;
- (b) in the case of statistics that are not market-sensitive statistics, that they are “Restricted Statistics”;
- (c) in all cases—
  - (i) that pre-release access in respect of the statistics has been granted under this Order;
  - (ii) that paragraph 5 of this Schedule contains certain requirements; and
  - (iii) details of how to inform the person responsible in the event that the statistics are or might be disclosed otherwise than is permitted by this Order.

#### **Timing of access**

4.—(1) Subject to sub-paragraphs (2) to (6)—

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(3) 2006 c. 32.

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- (a) in the case of market sensitive statistics, where granting pre-release access the person responsible must not give access to those statistics earlier than 24 hours before the intended time of their publication;
  - (b) in the case of other statistics, where granting pre-release access the person responsible must not give access to those statistics earlier than the fifth day before the intended date of their publication;
  - (c) in all cases, the person responsible must not give access earlier than they consider is necessary to fulfil the purpose for which they are granting access.
- (2) Where the person responsible grants pre-release access under the ground in paragraph 1(1)(d), sub-paragraphs (1)(a) and (b) do not apply.
- (3) Where granting pre-release access the person responsible may give access earlier than is provided for in sub-paragraphs (1)(a) and (b) provided that the following conditions are met—
- (a) they consider that such earlier access is necessary to fulfil the purpose for which they are granting pre-release access; and
  - (b) they consider that the public interest is significantly better served by giving such earlier access (rather than not giving it) having regard to any harm which such earlier access would be likely to cause to—
    - (i) public trust in the integrity of official statistics generally; or
    - (ii) public trust in the integrity of particular official statistics.
- (4) Where the person responsible gives pre-release access earlier than is provided for in sub-paragraphs (1)(a) and (b) they must, as soon as is reasonably practicable, inform the Statistics Board<sup>(4)</sup> of—
- (a) the fact that they have done so;
  - (b) the name of the statistics in respect of which such earlier access has been given;
  - (c) the name and position of the individual to whom such earlier access has been given;
  - (d) the date and time from which access was given;
  - (e) the ground in paragraph 1(1) under which access was granted; and
  - (f) an explanation of the reason for granting such earlier access.
- (5) The requirements set out in sub-paragraph (4) apply in cases where the person responsible has granted pre-release access under the ground in paragraph 1(1)(d) as if the restrictions in sub-paragraph (1) did apply to grants under that ground.
- (6) The periods of time mentioned in sub-paragraph (1) (“24 hours” and “day”) exclude any period of time which falls within a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a Bank Holiday under the Banking and Financial Dealings Act 1971<sup>(5)</sup> in any part of the United Kingdom.

### **Requirements where pre-release access has been granted**

5.—(1) This paragraph applies where an individual has been granted pre-release access under paragraph 1 in respect of statistics, or where statistics have been disclosed to an individual under paragraph 6.

(2) Without prejudice to paragraph 6, the individual must not disclose the statistics, or any indication of their content or of what they may show.

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<sup>(4)</sup> The Statistics Board (“*Y Bwrdd Ystadegau*”) was established by section 1(1) of the Act.

<sup>(5)</sup> 1971 c. 80.

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(3) In the case of an individual who has been granted pre-release access under paragraph 1, that individual must use the statistics only for the purpose for which such access was granted.

(4) In the case of an individual to whom the statistics have been disclosed under paragraph 6 by a person who has been granted pre-release access to them under paragraphs 1(1)(a) to (g), that individual must use the statistics only for the purpose of providing that person with administrative or technical support.

(5) The individual must take reasonable steps towards ensuring—

- (a) that the statistics are not disclosed otherwise than is permitted by this Order; and
- (b) that no indication of their content or of what they may show is disclosed.

(6) The individual must not use the statistics for personal gain.

(7) If the individual has reasonable grounds for believing that—

- (a) the statistics have been disclosed otherwise than is permitted by this Order; or
- (b) an indication of the content of the statistics, or of what they may show, has been disclosed; or

(c) there is a risk that a disclosure mentioned in sub-paragraph (a) or (b) will be made, the individual must comply with sub-paragraph (8).

(8) As soon as is reasonably practicable the individual must take all reasonably practicable steps to inform the person responsible of the disclosure or possible disclosure.

(9) The individual must not seek to change the format, content or timing of the publication of the statistics, except in accordance with sub-paragraph (10).

(10) If the individual identifies errors in, or wishes to comment on the format, content or timing of the publication of the statistics, the individual may communicate that to the person responsible.

#### **Disclosure of statistics for purposes of receiving administrative or technical support**

6. An individual who has been granted pre-release access under a ground in paragraphs 1(1)(a) to (g) may disclose to another particular identifiable individual the statistics in respect of which they have been granted access, provided that the disclosure is necessary for, and solely for the purpose of, enabling that other individual to provide them with administrative or technical support.

#### **Notification to Statistics Board where pre-release access is granted under the ground in paragraph 1(1)(h)**

7. Where pre-release access is granted under the ground in paragraph 1(1)(h) the person responsible must as soon as is reasonably practicable notify the Statistics Board of—

- (a) the name of the statistics in respect of which access was granted;
- (b) the name and position of the individual to whom access was granted;
- (c) the date and time from which that individual was given access; and
- (d) an explanation of the reason for granting access.

#### **Breach of the requirements of paragraph 5**

8. Where deciding whether or not to grant pre-release access to an individual under this Order, the person responsible must take into account any evidence of which they are aware which, in their opinion, indicates any of the following—

- (a) that the individual has, or may have, previously failed to comply with the requirements of paragraph 5;

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- (b) that another individual to whom that individual has previously disclosed statistics under paragraph 6 has, or may have, failed to comply with the requirements of paragraph 5;
- (c) that a previous grant to that individual under this Order of pre-release access in respect of statistics has, or may have, given rise to a disclosure of those statistics which was not permitted by this Order;
- (d) that a previous grant to that individual under this Order of pre-release access in respect of statistics has, or may have, given rise to a disclosure of an indication of the content of those statistics or of what they may have shown.

### **Record-keeping**

9.—(1) In relation to any statistics in respect of which the person responsible has granted pre-release access under this Order, the person responsible must make, as soon as is reasonably practicable, records of—

- (a) the name of the statistics;
- (b) the name, position and contact details of any individual to whom they have granted access;
- (c) the date and time from which that individual was given access;
- (d) the ground in paragraphs 1(1)(a) to (h) under which access was granted;
- (e) where access has been granted under the ground in paragraph 1(1)(h), the purpose to be achieved by the access;
- (f) any discussions or correspondence with the individual about the format, content or timing of the publication of the statistics;
- (g) any information which they have notified to the Statistics Board under paragraphs 4(4) or 7;
- (h) any information given to them under paragraph 5(8), along with the details of when and by whom that information was given to them;
- (i) any information received by them about a possible failure by any individual to comply with the requirements of paragraph 5, along with the details of when and by whom that information was given to them;
- (j) any information received by them about any disclosure of the statistics which was not one which was permitted by this Order, along with the details of when and by whom that information was given to them; and
- (k) any information received by them about any disclosure of an indication of the content of the statistics or of what they may have shown, along with the details of when and by whom that information was given to them.

(2) The records must be retained by the person responsible for a period of no less than 7 years from the date of the publication of the statistics to which they relate.

### **Publication**

10.—(1) The person responsible must ensure that each year, on 1 January or as soon as is reasonably practicable after that date, there is published a list of the names of the statistics to which they have granted pre-release access in the twelve months immediately prior to that date.

(2) The person responsible must ensure that there are arrangements in place towards ensuring that statistics in respect of which they are the person responsible, and to which this Schedule applies, are dealt with in accordance with this Order.

(3) The person responsible must ensure that, as soon as is reasonably practicable, there is published an explanation of the arrangements mentioned in sub-paragraph (2).

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(4) If the arrangements mentioned in sub-paragraph (2) are revised, the person responsible must ensure that, as soon as is reasonably practicable after those revisions are made, there is published an explanation of the revised arrangements.

**Provision of information**

**11.—**(1) Subject to sub-paragraph (3), the person responsible must, if a request is received by them for information which meets the criteria in sub-paragraph (2), provide the requester with that information no later than the twentieth working day after the day on which they receive the request.

(2) The criteria are that the information is contained in records which the person responsible has made for the purposes of any of paragraphs 9(1)(a) to (g) and are not contact details recorded for the purpose of paragraph 9(1)(b).

(3) For the purposes of this paragraph a request means a request which—

- (a) is in writing;
- (b) is received in legible form;
- (c) states the name of the requester and an address for correspondence; and
- (d) adequately describes the information requested.